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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/732,802	12/11/2003	Gonzalo Serafica	079579-0133	5886

22428 7590 04/19/2006

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EXAMINER

WEBMAN, EDWARD J

ART UNIT PAPER NUMBER

1616

DATE MAILED: 04/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/732,802	Applicant(s) SERAFICA ET AL.	
	Examiner Edward J. Webman	Art Unit 1616	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 December 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/16/04, 11/22/04</u> . | 6) <input type="checkbox"/> Other: _____  |

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 12-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Ring et al '400.

Ring et al '400 teach dressings comprising microbially-produced cellulose (abstract). A ratio of liquid to cellulose of 20:1 is disclosed (column 5 lines 36-38), therefore, the cellulose content is 5%. The dressings may be constructed in a variety of shapes (column 10 line 68-column 7 line 1). As to the claimed properties, they must be possessed by the anticipatory composition because it is the same as that claimed. As to the claimed shaping, Ring et al teach different sizes. Shaping to a wound is merely an intended use.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-11, 19-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ring et al in view of Augustine.

Ring et al '400 is described above. The cellulose is obtained from a motionless medium, repeatedly washed in water to a ratio of about 1:90 cellulose: water (column 5

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lines 6-19). Drying and reconstitution to 5 % liquid content is specified (column 6 lines 1-4). Sterilization in an electronic beam or cobalt-60 irradiation and sealing in packages constructed of aluminum foil laminated with a polymeric film is taught (column 10 lines 53-64). Changing the dressing is disclosed (column 10 lines 10-15). Ring et al does not teach treatment of pressure, diabetic or venous ulcers with dressings.

Augustine teaches treatment of wounds with a bandage (title). Pressure, diabetic, and venous ulcers are specified (column 1 lines 53-62).

It would have been obvious to one of ordinary skill to use the Ring et al '400 dressing to treat pressure, diabetic and venous ulcers, in view of the teaching of Augustine that such ulcers are treatable with a bandage. As to the claimed properties of the dressing, that of Ring et al '400 must possess said properties because it is the same dressing as that claimed. As to the claimed full thickness chronic wounds, Augustine teaches that pressure, diabetic and venous ulcers are such (column 1 lines 57-62). As to the claimed instructions and chevron pouch, the former is not a patentable limitation in utility patents and the latter is a mere design consideration. As to the cellulose to water ratio in the claimed method of making, Ring et al '400 teach a similar ratio. Again, absent a showing of criticality, obtaining an optimum ratio could be routinely determined. As to the claimed properties of the method of using, they must be achieved by the obvious method because it employs the same composition as claimed.

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Claims 1-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1, 3-4, 9-22, the phrase "microbial-derived cellulose" is vague; the metes and bounds of the derivation are unclear.

In claim 27 "margin s" is indefinite. "better" is vague; better than what alternative?

No claims allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward J. Webman whose telephone number is 571-272-0633. The examiner can normally be reached on M-F from 8 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Padmanabhan, can be reached on 571-272-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EDWARD J. WEBMAN  
PRIMARY EXAMINER  
GROUP 1500